

REMARKS

No new matter has been added.

The Office Action mailed October 5, 2005, has been received and reviewed. Claims 1 through 51 are currently pending in the application. Claims 1 through 51 stand rejected. Applicant proposes to amend claims 3, 4, and 9 and respectfully request reconsideration of the application as proposed to be amended herein.

35 U.S.C. § 101 Rejections

Claims 3 and 4 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicant has amended claims 3 and 4 to tangibly embody the subject matter of the claims.

Claim Objections

Claim 9 was objected to because of informalities. Applicant has amended claim 9 to correct the informalities.

35 U.S.C. § 102 Anticipation Rejections

Anticipation Rejection Based on Gagnon (EP 1 024 661 A2).

Claims 1-7, 9-16, 18-20, 22-27, 29-36, 39-44, and 46-50 stand rejected under 35 U.S.C. § 102 as being anticipated by Gagnon (EP 1 024 661 A2), (hereinafter "Gagnon").

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. § 2131 (Aug. 2001) (*quoting Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Id.* (*quoting Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1051, 1053 (Fed. Cir. 1987)). In addition, "the reference must be enabling and describe the applicant's invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention." *In re Paulsen*, 30 F.3d 1475, 1479, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Applicant respectfully submits that claims 1-7, 9-16, 18-20, 22-27, 29-36, 39-44, and 46-50 are not anticipated by Gagnon because the reference does not disclose all the claim limitations of the presently claimed invention as set forth above.

Claims 1, 2

Applicant submits that that Gagnon reference does not disclose the claim limitations calling for "transmitting a broadcast session on a broadcast transmission channel; and transmitting broadcast overhead information with the broadcast session on the broadcast transmission channel" [Independent Claim 1].

The Office Action alleges:

With respect to claim 1, Gagnon et al. discloses a wireless communication system supporting a broadcast service. (See page 7 paragraphs 29-30 and Figure 1 of Gagnon et al. for reference to a satellite communication system supporting broadcasting). Gagnon et al. also discloses transmitting a broadcast session on a broadcast transmission channel. (See page 7 paragraph 31 and Figure 1 of Gagnon et al. for reference to broadcasting a broadcast session from a transmission station 102 to a receiver station 106 via a satellite/relay 104.)

Applicant respectfully disagrees with the Office Action's characterization of the Gagnon reference. A close reading of the specific Gagnon reveals teachings very different from Applicant's invention as claimed. Specifically, the Gagnon reference recites:

A preferred broadcasting system is the satellite-based system utilized by the DIRECTV® broadcast service. Such embodiments . . . employ a satellite receiving antenna to acquire real-time video broadcasts and **periodic data broadcasts** used to construct a program guide display. (Col. 11, lines 6-12; emphasis added).

In operation, the programming sources 108 receive video and audio programming from a number of sources, . . . The received programming signals, along with data signals from the control data source 110 [note- the Gagnon reference provides no further enabling disclosure on the function or purpose of these signals], the data service source 112 [note- again, the Gagnon reference provides no further enabling disclosure on the function or purpose of these signals], and the program guide data sources 114, are sent to the video/audio/data encoding system 116 where they are digitally encoded into information data streams that are multiplexed into a packetized data stream or bit stream using a number of conventional algorithms. Each data packet within the packetized data stream includes a header that identifies the contents of the data packet and a service channel identifier (SCID) that identifies the data packet. (Col 11, line 46 through col. 12, line 2; emphasis added).

. . . The PPG [pictographic program guide] . . . is assembled using two basic types of external data: (1) real-time broadcast data (e.g. streaming data), and

(2) file data (i.e., data that is periodically downloaded and stored). (Col. 12, lines 42-46).

Applicant respectfully submits that Gagnon discloses no such information that is "transmitting a broadcast session on a broadcast transmission channel; and transmitting broadcast overhead information with the broadcast session on the broadcast transmission channel" as claimed by Applicant. In distinct contrast, Gagnon transmits **information** that is used to build a structure **independent of the processing of the broadcasting session**, namely Gagnon's program guide. The program guide includes clips of multiple broadcast channels as well as the structure to present the programming choices. In the Gagnon reference, the transmitted programming guide information has no bearing upon the processing of any of the broadcast channels but is merely provided as a completely independent source of information. The program guide is sent independently of the actual broadcast programming. A user makes a selection from the program guide and then begins receiving the broadcast. In short, the transmission or non-transmission of Gagnon's program guide information has no bearing upon transmission or processing of any broadcasting session.

Claim 2 is allowable as depending directly from an allowable independent claim.

Claims 3 and 4

Applicant submits that the Gagnon reference does not disclose the claim limitations calling for "a session description protocol message (SDP message) **interleaved with the broadcast session**, wherein the SDP message provides **information for processing the broadcast session**" [Independent Claim 3].

The Office Action alleges:

With respect to claim 3, Gagnon et al. discloses a communication signal transmitted on a carrier wave (See page 7 paragraph 31 and Figure 1 of Gagnon et al. for reference to a communication signal transmitted on a carrier wave from a transmission station 102 to a satellite/relay 104 and for reference to the signal being further transmitted to form the satellite/relay 104 to a receiver station 106 on another carrier wave). Gagnon et al. also discloses a broadcast portion (See page 7 paragraph 31 of Gagnon et al. for reference to the signal including a broadcast session). Gagnon et al. further discloses a session description protocol message interleaved with the broadcast session portion, wherein the SDP provides information for processing the broadcast session (See page 8 paragraph 36 and page 16 paragraph 84 of Gagnon et al.

for reference to a broadcast signal including SDP+ records and for reference to the SDP+ records being used to process the broadcast session).

Applicant respectfully disagrees with the Office Action's characterization of the Gagnon reference and maintains the arguments presented above for claims 1 and 2.

Applicant respectfully submits that Gagnon discloses no such information that is "a session description protocol message (SDP message) interleaved with the broadcast session", "wherein the . . . session description protocol message provides information for processing the broadcast session" as claimed by Applicant. In distinct contrast, Gagnon transmits information that is used to build a structure independent of the processing of the broadcasting session, namely Gagnon's program guide. The program guide includes clips of multiple broadcast channels as well as the structure to present the programming choices. In the Gagnon reference, the transmitted programming guide information has no bearing upon the processing of any of the broadcast channels but is merely provided as a completely independent source of information. A user makes a selection from the program guide and then begins receiving the broadcast. In short, the transmission or non-transmission of Gagnon's program guide information has no bearing upon processing of any broadcasting session.

The Office Actions' citation to corresponding teachings within the Gagnon reference is also unsupported and non-enabling. Specifically, the Office Action cites to the Gagnon reference, page 8 paragraph 36 and page 16 paragraph 84 for support, however, the alleged Gagnon teaching is unsupported by the Gagnon reference.

At the Office Action's citation, the Gagnon reference explicitly states:

. . . One [] method that allows the PPG [pictographic program guide] [] to efficiently find and process information for presentation to a user are "session description protocol plus" (SDP+) records. (Page 16 paragraph 83).

An SDP+ record is an announcement mechanism that includes a number of fields, which are assembled into a single record or file . . . (Page 16 paragraph 84).

While the Gagnon reference continues to expound upon fields and information content of the SDP+ record (e.g., start and end times of the broadcast, the repeat times of the broadcast, addresses of Internet web pages that provide additional information regarding the specific program item, etc.), the SDP+ record clearly further enhances the Independent program guide of

Gagnon rather than providing information that is "interleaved with the broadcast session", "wherein the . . . information provides information for processing the broadcast session" as claimed by Applicant. The guide of Gagnon is separate from the actual broadcast of the selected broadcast.

Claim 4 is allowable as depending directly from allowable independent claim 3.

Claims 5-7

Claims 5-7 are allowable for the reasons given above for claim 3 and 4.

Claims 9-16

Claims 9-16 are allowable for the reasons given above for claims 1, 3, and 4.

Claims 18-20

Claim 18 is allowable as depending directly from allowable independent claim 12.

Claim 19 is allowable for the same reasons given above for claims 1, 3, and 4.

Claim 20 is allowable as depending directly from allowable independent claim 19.

Claims 22-27

Claim 22 is allowable as depending directly from allowable independent claim 19.

Claim 23 is allowable for the reasons given above for claims 1 and 3.

Claims 24-27 are allowable as depending directly or indirectly from allowable independent claim 23.

Claims 29-36

Claims 29-33 are allowable as depending directly or indirectly from allowable independent claim 23.

Claim 34 is allowable for the same reasons given above for claims 1 and 3.

Claims 35 and 35 are allowable as depending directly from allowable independent claim 34.

Claims 39-44

Claim 39 is allowable for the reasons given above for claims 1 and 3.

Claims 40-44 are each allowable as depending directly or indirectly from an allowable independent claim.

Claims 46-50

Claim 46 is allowable as depending directly from allowable independent claim 39.

Claim 47 is allowable for the reasons given above for claims 1 and 3.

Claims 48-50 are allowable as depending directly or indirectly from an allowable independent claim.

Applicant submits that the Gagnon reference does not disclose all of the limitations of Applicant's invention as claimed, this reference cannot anticipate Applicant's invention as claimed under 35 U.S.C. § 102. Therefore, Applicant respectfully requests that the rejections be withdrawn.

35 U.S.C. § 103(a) Obviousness Rejections

Obviousness Rejection Based on Gagnon (EP 1 024 661 A2) and Further in View of U.S. Patent No. 6,032,197 to Birdwell et al.

Claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Gagnon (EP 1 024 661 A2), and further in view of Birdwell (U.S. Patent No. 6,032,197 hereinafter "Birdwell"). Applicant respectfully traverses this rejection, as hereinafter set forth.

Applicant submits that the nonobviousness of independent claim 7, precludes a rejection of claim 8 depending therefrom, because a dependent claim is obvious only if the independent claim from which it depends is obvious. *See In re Fine*, 5, U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), *see also* MPEP § 2143.03. Therefore, the Applicant requests that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejection to dependent claim 8.

Obviousness Rejection Based on Gagnon (EP 1 024 661 A2) and Further in View of U.S. Patent No. 6,775,303 to Rustad et al. et al.

Claims 17, 28, and 45 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gagnon (EP 1 024 661 A2), and further in view of Rustad (U.S. Patent No. 6,775,303 hereinafter "Rustad"). Applicant respectfully traverses this rejection, as hereinafter set forth.

Applicant submits that the nonobviousness of independent claims 12, 23, and 39 precludes a rejection of claims depending therefrom, because a dependent claim is obvious only if the independent claim from which it depends is obvious. *See In re Fine*, 5, U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), *see also* MPEP § 2143.03. Therefore, the Applicant requests that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejection to dependent claims 17, 28, and 45

Obviousness Rejection Based on Gagnon (EP 1 024 661 A2) and Further in View of U.S. Patent No. 6,580,756 to Matsui et al. et al.

Claims 21, 37, 38, and 51 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gagnon (EP 1 024 661 A2), and further in view of Matsui (U.S. Patent No. 6,580,756 hereinafter "Matsui"). Applicant respectfully traverses this rejection, as hereinafter set forth.

Applicant submits that the nonobviousness of independent claims 19, 34, and 47 precludes a rejection of claims depending therefrom, because a dependent claim is obvious only if the independent claim from which it depends is obvious. *See In re Fine*, 5, U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), *see also* MPEP § 2143.03. Therefore, the Applicant requests that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejection to dependent claims 21, 37, 38, and 51.

ENTRY OF AMENDMENTS

The proposed amendment to claims 3, 4 and 9 above should be entered by the Examiner because the amendments are supported by the as-filed specification and drawings and do not add any new matter to the application. Further, the amendments do not raise new issues or require a further search.

CONCLUSION

Claims 1-11 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, he is respectfully invited to contact Applicant's undersigned attorney.

Respectfully submitted,

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